

SECRET**SENSITIVE**

SENT

FBI REVIEWED 09-Nov-2010: NO OBJECTION TO DECLASSIFICATION

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REFER TO DOS

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FM MR. SONNENFELDT
TO GEN. HAIG FOR MR. KISSINGER
ZEM
SECRET SENSITIVE EYES ONLY WH10291

TO BE DELIVERED IN A SEALED ENVELOPE FOR GEN. HAIG
EYES ONLY FOR MR. KISSINGER
FROM SONNENFELDT

SUBJECT: SOVIET SPY

FURTHER TO OUR PHONE CONVERSATION THIS MORNING, STATE HAS NOW INFORMED US OFFICIALLY THAT IT INTENDS TO GIVE JUSTICE ITS GREEN LIGHT ON APRIL 2. THE FBI WOULD MOVE ON APRIL 5 AND ARRAIGNMENT WOULD TAKE PLACE IN US DISTRICT COURT FOR EASTERN DISTRICT OF NEW YORK (BROOKLYN). STATE EXPECTS JUSTICE TO REQUEST HIGH BAIL OF \$100,000, AS IS USUAL PRACTICE. ARRAIGNMENT VIRTUALLY IMPOSSIBLE TO KEEP SECRET SINCE REPORTERS ROUTINELY COVER COURTS.

MY VIEW REMAINS, FOR REASONS I STATED IN MY MESSAGE YESTERDAY AND IN OUR CONVERSATION THIS MORNING, THAT ACTION SHOULD PROCEED. JUSTICE, HOWEVER, SHOULD BE INSTRUCTED TO KEEP ANY PUBLICITY STRICTLY CONFINED TO THE CASE AT HAND AND IN MATTER OF FACT TONE.

STATES'S MEMO TO YOU INFORMING YOU OF CONTEMPLATED ACTION BEING DEX'D SEPARATELY.

INCIDENTALLY, SOVIETS HAVE JUST EXPELLED A US EXCHANGE PROFESSOR FOR ALLEGEDLY ENGAGING IN SUBVERSIVE AND ZIONIST ACTIVITIES.

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DOS REVIEWED 12 NOV 2010 NO OBJECTION TO DECLASSIFICATION

SECRET**SENSITIVE**

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DEPARTMENT OF STATE

Washington, D.C. 20520

April 1, 1971

SECRET/EXDISMEMORANDUM FOR MR. HENRY A. KISSINGER
THE WHITE HOUSESubject: Proposed Arrest and Prosecution of Soviet
National for Espionage

We have been informed by the Department of Justice that the Federal Bureau of Investigation intends to arrest a Soviet national, Valeriy Ivanovich Markalov, on Monday April 5 at Long Island, New York, on a complaint charging violation of the Espionage Act. The substance of the prospective charges against Markalov is that since September 1970 he has sought to acquire classified defense information regarding certain aspects of the F-14 aircraft being built by Grumman Aerospace Corporation of Bethpage, Long Island, New York, by enlisting a mechanical engineer employed by Grumman, who has become an FBI controlled informant. As of now no classified information has actually been delivered to Markalov, and therefore he can only be charged with an attempt to acquire such information under 18 U.S.C. 793(b), which carries a maximum penalty of ten years imprisonment and \$10,000 fine. The FBI hopes, however, that at Markalov's meeting with the informant on April 5 just prior to the planned arrest the informant will succeed in delivering to Markalov the classified information he has requested, in which case it would be possible to charge him with actual espionage under 18 U.S.C. 794, a capital offense.

Following Markalov's arrest, he will be arraigned in the Eastern District of New York (Brooklyn), at which time the Department of Justice undoubtedly will request that high bail be set (\$100,000, if past practice is followed).

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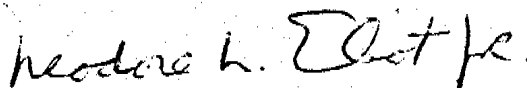
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The Soviets undoubtedly will post bail and lodge a stiff protest asserting that Markalov is entitled to diplomatic immunity. Markalov is a Russian translator employed by the United Nations Secretariat and therefore is not entitled to diplomatic immunity from prosecution on such charge. Markalov would probably be indicted within a week or so and would be confined to the New York area on bail pending trial of his case.

In addition to a Soviet protest, it is conceivable that Markalov's arrest and prosecution could result in the detention of a United States national in the Soviet Union or in the Soviets declaring one of our diplomats persona non grata. However, the Soviets generally have not retaliated in this fashion because of the arrest of a Soviet national employed by the United Nations Secretariat. No United States nationals are presently detained in the Soviet Union.

We believe that cases such as this must be prosecuted periodically if the Soviets are not to believe that their agents can operate in the United States with impunity. Since the last such person apprehended, Aleksandr. V. Tikhomirov, who was arrested in Seattle on February 7, 1970, was permitted to leave the United States without being prosecuted, and Igor A. Ivanov was recently permitted to travel to the Soviet Union on expanded bail provisions, we believe that this prosecution would be timely. Thus, while the Soviets will protest our action vigorously and this case will be a problem in our relations, we believe it appropriate that we proceed.

Accordingly, we intend to inform the Department of Justice on Friday, April 2, that we have no objection to the proposed arrest and prosecution.



Theodore L. Eliot, Jr.
Executive Secretary

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GROUP 1

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